

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

THOMAS R. JONES,

Petitioner,

vs.

SCOTT FRAKES,

Respondent.

8:21CV249

**AMENDED
MEMORANDUM AND ORDER**

This matter is before the Court on the parties' Joint Stipulation Regarding Timeliness of Petition, [Filing No. 34](#), and Joint Motion for Progression Order, [Filing No. 35](#). On August 19, 2022, Senior United States District Court Judge Richard G. Kopf entered a Memorandum and Order granting an evidentiary hearing on the issue of whether Petitioner Thomas R. Jones' habeas petition was timely filed before the statute of limitations expired and appointed the Federal Public Defender to represent Jones. [Filing No. 31](#). The case was then reassigned to the undersigned in light of Judge Kopf's approaching transition to inactive senior status. [Filing No. 32](#). Counsel have now conferred and stipulated that Jones' petition was timely filed on June 6, 2021, by application of the prison mailbox rule set forth in Rule 3(d) of the *Rules Governing Section 2254 Cases in the United States District Courts*. [Filing No. 34](#). Thus, the parties have stipulated that Jones' petition was filed prior to the expiration of the statute of limitations under [28 U.S.C. § 2244\(d\)](#) and an evidentiary hearing is no longer necessary. *Id.* The parties now move the Court to enter an order progressing this matter to final resolution. [Filing No. 35](#).

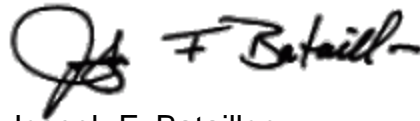
IT IS THEREFORE ORDERED that:

1. Petitioner's and Respondent's Joint Motion for Progression Order, [Filing No. 35](#), is granted.
2. By **November 1, 2022**, Respondent must file all state court records that are relevant to Petitioner's claims. Those records must be contained in a separate filing entitled: "Designation of State Court Records in Support of Answer."
3. If necessary, and by no later than 30 days after the relevant state court records are filed, Petitioner shall file an amended habeas petition.
4. Within 30 days of the filing of an amended petition or, if none is filed, by **January 3, 2023**, the Respondent shall file his answer to Petitioner's claims. The answer must be accompanied by a separate brief, submitted at the time the answer is filed.
5. No later than 30 days after Respondent's answer and brief are filed, Petitioner must file and serve a brief addressing Respondent's answer and any other pertinent matter.
6. No later than 30 days after Petitioner's brief is filed, Respondent must file and serve a reply brief. In the event that Respondent elects not to file a reply brief, he should inform the Court by filing a notice stating that he will not file a reply brief and that the merits of the petition are therefore fully submitted for decision.
7. The Clerk of the Court is directed to set the following pro se case management deadlines in this case using the following text:
 - a. **November 1, 2022**: deadline to file state court records in support of answer.
 - b. **December 1, 2022**: check for Petitioner's amended petition.

- c. **January 3, 2023:** check for Respondent's answer and separate brief.

Dated this 22nd day of September, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J F Bataillon". The signature is stylized with a large, circular initial "J" and a long, horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge